

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIAN JAMIE ROETHLISBERGER,

Plaintiff,

- against -

OXIDO CORP.

Defendant.

Docket No. 1:20-cv-1909

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Brian Jamie Roethlisberger (“Roethlisberger” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Oxido Corp. (“Oxido Corp.” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photographs of models, owned and registered by Roethlisberger, a New York based professional photographer. Accordingly, Roethlisberger seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Roethlisberger is a professional photographer in the business of licensing his photographs for a fee having a usual place of business at 689 Myrtle Avenue, 1D, Brooklyn, New York 11205.

6. Upon information and belief, Oxido Corp. is a domestic business corporation duly organized and existing under the laws of the State of New York, with a place of business at 753 9th Avenue, New York, New York 10019. Upon information and belief, Oxido Corp. is registered with the New York Department of State Division of Corporation to do business in the State of New York. At all times material hereto, Oxido Corp. has operated their Instagram page at the URL: www.Instagram.com/AtlasSocialClub (the “Website”) and has

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. Roethlisberger photographed models (the “Photographs”). A true and correct copy of the Photographs are attached hereto as Exhibit A.

8. Roethlisberger is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with United States Copyright Office and were given Copyright Registration Numbers VA 2-144-595, 2-142-839, VA 2-142-916, VA 2-142-812, VA 2-142-728, VA 2-142-748.

B. Defendant’s Infringing Activities

10. Oxido Corp. ran the Photographs on its Website to promote its bar. See Exhibit B.

11. Oxido Corp. did not license the Photographs from Plaintiff for its Website, nor did Oxido Corp. have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Oxido Corp. infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on its posters. Oxido Corp. is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Oxido Corp. have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Oxido Corp. be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
March 3, 2020

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